

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

UNITED CAPITAL FINANCIAL
ADVISERS, INC.,

Plaintiff,

v.

CAPITAL INSIGHT PARTNERS, LLC; et al.,

Defendants.

2:12-CV-0300-LRH-PAL

ORDER

Before the court is plaintiff United Capital Financial Advisers, Inc.'s ("United Capital") application for a temporary restraining order without notice pursuant to Rule 65 of the Federal Rules of Civil Procedure and motion for a preliminary injunction. Doc. #5.¹

Pursuant to Rule 65, "[t]he court may issue a temporary restraining order without written or oral notice to the adverse party . . . only if: (A) specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition; and (B) the movant's attorney certifies in writing any efforts made to give notice and the reasons why it should not be required." FED. R. CIV. P. 65(b)(1).

Here, after reviewing the documents and pleadings on file in this matter, the court finds that United Capital has not satisfied the requirements for issuance of a temporary restraining order

¹ Refers to the court's docket number.

1 without notice under Rule 65. In support of its motion, United Capital has submitted a personal
2 affidavit and a declaration from counsel. *See* Doc. #5, Exhibit 1. However, these documents fail to
3 comply with the requirements of Rule 65(b)(1)(B). Counsel's declaration does not mention any
4 attempt to provide notice to the opposing party nor does it identify the reasons why notice should
5 not be required. Further, United Capital's application makes it clear that it has not yet served the
6 underlying complaint. Therefore, the court finds that United Capital is not entitled to issuance of a
7 temporary restraining order. Accordingly, the court shall deny the application for a temporary
8 restraining order and set a shortened briefing schedule on the motion for a preliminary injunction.
9

10 IT IS THEREFORE ORDERED that plaintiff's application for a temporary restraining
11 order is DENIED. Plaintiff shall serve a copy of the motion for a preliminary injunction, along with
12 the complaint and summons in this action, on defendants no later than Friday, March 16, 2012.
13 Defendants may file a response to the motion no later than 5:00 p.m., Friday, March 23, 2012.
14 Plaintiff may file a reply no later than 5:00 p.m., Tuesday, March 27, 2012.

15 IT IS FURTHER ORDERED that a hearing on plaintiff's motion for a preliminary
16 injunction is scheduled for Thursday, March 29, 2012, at 10:00 a.m. in Courtroom 5 at the Bruce R.
17 Thompson courthouse in Reno, Nevada. The parties may appear by video-conference from the
18 Lloyd D. George courthouse in Las Vegas, Nevada, by contacting the courtroom deputy, Dionna
19 Negrete, at (775) 686-5829 no later than Friday, March 23, 2012.

20 IT IS SO ORDERED.

21 DATED this 14th day of March, 2012.



22
23
24 LARRY R. HICKS
25 UNITED STATES DISTRICT JUDGE
26